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IN THE SUPREME COURT

STATE OF ARIZONA

PETITION TO AMEND)	Supreme Court No. R-08-_____
RULE 27.4, ARIZONA RULES)	
OF CRIMINAL PROCEDURE)	Amended Petition
)	
)	
)	
_____)	

Pursuant to Arizona Supreme Court Rule 28, David K. Byers, Director, Administrative Office of the Courts, respectfully petitions this Court to adopt the attached proposed rule amendments to the Rules of Criminal Procedure.

I. Background and Purpose of the Proposed Rule Amendments and New Rules

In the Second Regular Session of the Forty-eighth Legislature (2008), the Legislature passed Chapter 298, Senate Bill SB 1476. This statute has an impact upon the Criminal Rules of Procedure. The Senate Bill was signed by the governor on June 27, 2008.

The final amended Fact Sheet for Senate Bill 1476 describes the bill's purpose as: "allows the court to adjust the period of a defendant's supervised probation for earned time credit." It is necessary to amend the Rules of Criminal Procedure to provide for this adjustment in the period of supervised probation.

II. Contents of the Proposed Rule Amendment

The proposed rule amendment provides for earned time credit and sets forth criteria for application of the rule. Additionally, there is provision for the revocation of earned time credit if a probationer is found in violation of a condition of probation. Further, the rule specifies who may not apply for earned time credit.

III. Proposed Public Comment Period

Petitioner respectfully recommends a public comment period for the proposed rules ending May 20, 2009.

IV. Effective Date of the Proposed New Rules.

Petitioner requests expedited adoption of the proposed new rules under Rule 28(g) of the Rules of the Supreme Court. The underlying statutes become effective on December 31, 2008, and the proposed rules should be implemented without awaiting the one year rule processing cycle. Petitioner respectfully requests that the proposed new rules be made effective on and after December 31, 2008.

RESPECTFULLY SUBMITTED THIS 3rd day of November 2008:

By _____
David K. Byers, Director
Administrative Office of the Courts
1501 W. Washington
Phoenix, Arizona

Rule 27.4 Early Termination of Probation

a. Discretionary Probation Termination. At any time during the term of probation, upon motion of the probation officer or on its own initiative, the court, after notifying the prosecutor, may terminate probation and discharge the probationer absolutely.

b. Earned Time Credit Probation Termination. The court may adjust the term of a probationer's supervised probation on the recommendation of an adult probation officer for earned time credit. A reduction of the term of probation for earned time credit shall equal twenty days for every thirty days that a probationer does all of the following:

- (1) Exhibits positive progression toward the goals and treatment of the probationer's case plan;
- (2) Is current on payments for court ordered restitution and other obligations, and;
- (3) Is current on completing community restitution.

Any reduction in the term of probation for earned time credit awarded pursuant to statute and this rule shall be revoked if a probationer is found in violation of a condition of probation. This provision does not apply to a probationer who is currently: (1) on lifetime probation, (2) on probation for any class 2 or 3 felony, (3) on probation exclusively for a misdemeanor offense, or (4) required to register pursuant to A.R.S. §13-3821.